



UNITED STATES BANKRUPTCY COURT
CENTRAL DISTRICT OF CALIFORNIA
OFFICE OF THE CLERK

KATHLEEN J. CAMPBELL
Executive Officer
Clerk of Court

PUBLIC NOTICE

**RE: REVISIONS TO GENERAL ORDER 96-05 AND LBRs
EFFECTIVE JANUARY 3, 2011**

The United States Bankruptcy Court for the Central District of California has revised General Order 96-05 *Attorney Discipline Procedures in Bankruptcy Court*, and a number of its Local Bankruptcy Rules (LBRs) as listed below. The General Order and LBRs become effective January 3, 2011.

LBR Number	LBR Title
LBR 1010-1	Involuntary Petitions
LBR 3015-1(w)(3)	Motions and Applications Filed on Notice of Opportunity to Request a Hearing: Response Filed
LBR 5005-2(d)	Filing Papers - Number of Copies: Judge's Copy
LBR 7004-1(a)	Issuance and Service of Summons and Notice of Status Conference: Presentation of Issuance
LBR 7056-1(b)(1)	Summary Judgment: Motion and Supporting Documents
LBR 9009-1	Forms
LBR 9013-1(o)(2)	Matters that May Not be Determined Upon Notice of Opportunity to Request Hearing
LBR 9013-1(o)(4)	Motions and Matters Not Requiring a Hearing: Response and Request for Hearing Filed

The revised General Order and LBRs are available at no cost on the Court's website at www.cacb.uscourts.gov (under *Forms/Rules/General Orders*), and for a fee at the Intake Sections of all five divisions. Redline versions of the revised General Order and LBRs are also available at no cost on the Court's website.

KATHLEEN J. CAMPBELL
Clerk of Court

10-028 (12/16/10)

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8 **UNITED STATES BANKRUPTCY COURT**
9 **CENTRAL DISTRICT OF CALIFORNIA**
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11 In re) **SECOND ~~THIRD~~ AMENDED**
12 ATTORNEY DISCIPLINE PROCEDURES) **GENERAL ORDER 96-05**
13 IN BANKRUPTCY COURT)
14 _____)

15 **Applicability**

16 This general order establishes a process for court wide discipline of attorneys in the
17 bankruptcy court.

18 These procedures shall apply when any judge of this court wishes to challenge the right
19 of an attorney to practice before this court or recommends the imposition of attorney discipline
20 intended to apply in all bankruptcy cases in this court.

21 Nothing in this general order is intended to limit or restrict the authority of any judge to
22 impose sanctions on any attorney in any case or cases assigned to that judge.
23

24 **Initiation of Disciplinary Proceedings**

25 If a bankruptcy judge wishes to initiate disciplinary proceedings under this general
26 order, the judge shall prepare and file with the Clerk of Court a written Statement of Cause

1 setting forth the judge's basis for recommending discipline and a description of the discipline
2 the referring judge believes is appropriate.

3 The clerk shall open a case file, assign a miscellaneous case number, initiate a docket
4 for the file, select three bankruptcy judges of this district at random (excluding the judge who
5 filed the Statement of Cause) to serve on the Hearing Panel (the "Panel") which will
6 determine whether the attorney shall be disciplined and, if so, the type and extent of
7 discipline. The most senior judge assigned to the Panel shall be the Presiding Judge. The
8 clerk shall prepare a Designation of Hearing Panel and Presiding Judge which shall include
9 a signature line for each of the designated judges. The signature of each judge shall certify
10 his or her acceptance of assignment to the Panel. Should any judge decline to serve, the
11 clerk shall select another judge to serve on the Panel, give written notice thereof to the other
12 judges on the Panel and issue a Supplemental Designation of Hearing Panel, which shall
13 contain a signature line for the newly appointed judge to accept the assignment.

14 Once the clerk has obtained the acceptance of three judges to serve on the Panel, the
15 clerk shall prepare a Notice of Assignment of Hearing Panel, which the clerk will serve on the
16 attorney named in the Statement of Cause ("the attorney") and on the local Office of the
17 United States Trustee, along with a copy of the Statement of Cause and a copy of this
18 general order. The attorney may file a motion for recusal as to any of the judges assigned
19 to the Panel within 14 days of the service of the Notice of the Assignment of Hearing Panel
20 and serve the motion on the Office of the United States Trustee. That motion may be heard
21 by any judge other than the referring judge, any judge assigned to the Panel, or any judge
22 who has declined to serve on the Panel. The assignment of the recusal motion to a judge
23 shall be made at random by the clerk, who shall give notice of the recusal hearing to the
24 attorney and to the Office of the United States Trustee at least 14 days before the hearing
25 date.

26 Once the period for bringing a recusal motion has terminated, or after disposition of

1 any recusal motion, the Presiding Judge shall advise the clerk of the date, time, and place
2 for the Disciplinary Hearing, whereupon the clerk shall prepare a Notice of Disciplinary
3 Hearing and mail the notice to the attorney and to the Office of the United States Trustee at
4 least 21 days before the hearing date.

5 6 **Hearing Procedures**

7 The attorney may appear at the Disciplinary Hearing with legal counsel and may
8 present evidence:

- 9 (A) Refuting the statements contained in the Statement of Cause,
- 10 (B) Mitigating the discipline (i.e., that notwithstanding the validity of the
11 statements in the Statement of Cause the attorney should not be
12 disciplined), and
- 13 (C) Bearing on the type and extent of disciplinary action appropriate under
14 the circumstances.

15 The Federal Rules of Evidence shall apply to the presentation of evidence at the
16 Disciplinary Hearing, and an official record of the proceedings shall be maintained as through
17 the Disciplinary Hearing were a contested matter as that term is defined in the Federal Rules
18 of Bankruptcy Procedure. The United States Trustee for the district may appear at the
19 hearing in person or by counsel and may participate in the presentation of evidence as
20 though she or he were a party to the proceeding. If the United States Trustee wishes to
21 appear at the hearing, she or he must file a Notice of Intent to Appear, setting forth the
22 purposes for the appearance, and serve that notice on the attorney at least 14 days before
23 the hearing. The Panel may disregard written statements or declarations of innocence or in
24 mitigation of the attorney's conduct unless they are filed with the court with copies delivered
25 promptly thereafter to the chambers of each member of the Panel at least 7 days prior to the
26 hearing. Written statements presented to the Panel for consideration as evidence may be

1 disregarded by the Panel if the declarant is unavailable at the hearing for cross-examination
2 and for examination by the Panel.
3

4 **Ruling**

5 At the conclusion of the Disciplinary Hearing, the judges of the Panel will adjourn to
6 a private session to consider the matter. The ruling of the Panel will be made by majority
7 vote of the judges on the Panel. The Presiding Judge will assign to a judge in the majority
8 the task of drafting the Panel's Memorandum of Decision setting forth the majority's decision
9 and its reasons. Any member of the Panel may issue a concurring or dissenting opinion
10 which will be made a part of the Memorandum of Decision.

11 If the Panel imposes discipline on an attorney, the Presiding Judge shall issue a
12 Discipline Order based on the Panel's Memorandum of Decision. That order may provide
13 for any appropriate discipline, including but not limited to revocation or suspension of the right
14 to practice before all the judges of this court. The Discipline Order will become final 14 days
15 after entry or, if a motion for rehearing is filed, 14 days after entry of an order denying the
16 attorney's motion for rehearing. The same rule as to finality will apply to a new or revised
17 Discipline Order, if one is issued by the Panel after rehearing.

18 The Discipline Order shall be sent by the clerk to the Clerk of the District Court.
19 Should the Panel so order, a Discipline Order also may be transmitted by the clerk to the
20 State Bar of California or published in designated periodicals, or both.

21 If an attorney's practice privileges have been revoked, modified, or suspended by final
22 order of a Panel, the attorney may not appear before any of the judges of this court
23 representing any other persons or entities except in compliance with the terms of the
24 Discipline Order.
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Reinstatement

An attorney whose privileges have been revoked, modified, or suspended under this general order may apply to the Chief Judge of this court for reinstatement of privileges on the following schedule:

- (A) If privileges were revoked without condition for an unlimited period of time, the attorney may apply for reinstatement after five years from the date the Discipline Order becomes final;
- (B) If privileges were revoked or suspended with specified conditions precedent to reinstatement, the attorney may apply for reinstatement upon fulfillment of the conditions set forth in the Discipline Order; and
- (C) If privileges were suspended for a specified period of time, the attorney may apply for reinstatement at the conclusion of the period of suspension or five years after the Discipline Order becomes final, whichever first occurs.

An Application for Reinstatement of Privileges must include a copy of the Discipline Order, proof that all conditions justifying reinstatement have been fulfilled, and proof that the applicant is in good standing before the United States District Court for the Central District of California and is a member in good standing of the State Bar of California. If the attorney's privileges were revoked, or if the suspension was for a time in excess of five years and was without any conditions precedent to reinstatement, it shall be within the sole discretion of the Chief Judge whether to issue a reinstatement order. If the Chief Judge determines that the attorney is entitled to reinstatement of practice privileges, he or she may issue a Reinstatement Order. Upon entry of the Reinstatement Order, the attorney affected thereby shall be deemed eligible to practice before all the judges of this court except to the extent any judge of this court has issued an order, other than under this rule, denying that attorney the right to appear before that judge or to appear in a particular case.

1 Upon entry, the clerk shall transmit a copy to all judges of this court and to the
2 attorney, the clerk of the District Court, and to the United States Trustee. In addition, if the
3 Discipline Order was sent to the State Bar or published, the Clerk shall transmit the
4 Reinstatement Order to the State Bar and publish it in the same publication, if possible. If
5 the Chief Judge does not grant the Application for Reinstatement of Privileges, he or she
6 shall issue an order denying the application together with a separate written statement of the
7 reasons for his or her decision. That order will become final 14 days after entry.

8 If an attorney's Application for Reinstatement of Privileges is denied, he or she may
9 reapply for reinstatement after one year from the date of entry of the order denying the
10 previous application or within such other time or upon fulfillment of such conditions as may
11 be set forth in the order denying reinstatement.

Maintenance of Discipline Files

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14 ~~The clerk will place in the court's file for each disciplinary proceeding all documents~~
15 ~~referred to above and others received or issued by this court relating thereto, and notations~~
16 ~~thereof shall be entered on the docket for that proceeding. Those files shall be maintained~~
17 ~~in accordance with applicable law and rules for maintenance of miscellaneous files of this~~
18 ~~court and shall be available for review and copying by members of the public unless, by order~~
19 ~~of the Chief Judge or the Presiding Judge of the Panel to which the matter was assigned,~~
20 ~~access to the file is restricted or prohibited.~~

21 Except to the extent that access to a particular file is restricted or prohibited by order
22 of the Chief Judge or the Panel to which the matter was assigned, (1) those files shall be
23 maintained in accordance with applicable law and rules for maintenance of miscellaneous
24 files of this court and shall be available for review and copying by members of the public, and
25 (2) orders, opinions and written memoranda issued in these matters shall be published on
26 the Court's website.

1 The clerk shall close a disciplinary file 30 days after entry of a dispositive order (for
2 example, an Order Re Revocation of Privileges or a Reinstatement Order) in that proceeding
3 unless within that time the clerk receives a Notice of Appeal of any order rendered in the
4 proceeding or other information justifying maintenance of the file in an open status. The clerk
5 shall reopen a disciplinary file upon the request of the attorney, for the convenience of the
6 court, or upon order of any judge of this court, whereupon the clerk shall advise the Chief
7 Judge accordingly. So long as any disciplinary files remain open, the clerk shall provide the
8 Chief Judge a quarterly status report of all such open files to which will be attached copies
9 of their dockets. The Chief Judge may order any such files closed when he or she deems
10 it appropriate, consistent with the provisions hereof and the status of any such matter.

11 **Appeals**

12 All orders issued pursuant to this rule shall be appealable to the extent permitted by
13 applicable law and rules of court.
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16 **IT IS SO ORDERED.**

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20 DATED:

21 **Vincent P. Zurzolo**
22 Chief Judge, United States Bankruptcy Court
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LBR 1010-1

Effective January 3, 2011

LBR 1010-1. INVOLUNTARY PETITIONS

The court may dismiss an involuntary petition *sua sponte* if the petitioner fails to (a) prepare a Summons and Notice of Status Conference in an Involuntary Bankruptcy Case on the court-mandated form and submit it to the clerk for issuance; (ab) serve the summons and petition within the time allowed by FRBP 7004; (bc) file a proof of service of the summons and petition with the court; or (cd) appear at the status conference set by the court.

LBR 3015-1 (w)(3) Motions and Applications Filed on Notice of Opportunity to Request a Hearing: Response Filed

Effective January 3, 2011

- (3) Response Filed. If a response is filed with respect to any motion or application listed in subsection (w)(1) of this rule, the provisions of LBR 9013-1(o)(4) must be complied with, subject to the following modifications:
- (A) Trustee's Motion to Dismiss a Case; Trustee's Motion to Modify a Confirmed Plan. The person or entity who timely files and serves a response to a trustee's motion to dismiss a case, or a trustee's motion to modify a confirmed plan, must, **prior to filing and serving the response**, obtain a hearing date from the court (or use the court's self-scheduling system) and ~~serve notice of the hearing with the response~~ the hearing date, time and location must be indicated on the caption page of the response. The hearing date must be the court's next available chapter 13 calendar that provides the chapter 13 trustee with at least 7 days notice, but the hearing date must not be more than 30 days after the response is filed. The court may grant the motion without a hearing if the hearing is not set timely.
- (B) Debtor's Motion to Modify a Confirmed Plan or Suspend or Extend Plan Payments, or Application for Supplemental Fees. If the chapter 13 trustee timely files and serves any comments regarding the motion **or application**, the ~~chapter 13 trustee~~ debtor must promptly lodge a proposed order, and, when serving a judge's copy of the proposed order, include a copy of the motion/application and the trustee's comments.
- ~~(C) Application for Supplemental Fees. If the chapter 13 trustee timely files and serves any comments regarding the application, the chapter 13 trustee must promptly lodge a proposed order, electronically via LOU, using court-mandated form F-3015-1.12, and serve the proposed order on the applicant.~~

LBR 5005-2 (d)

Effective January 3, 2011

- (d) **Judge's Copy.** A paper copy of any document filed **or lodged** with the court, either electronically or non-electronically, must be marked "Judge's Copy" and served on the judge in chambers in the manner and not later than the deadline set forth in the Court Manual available from the clerk and on the court's website.
- (1) The judge's copy must meet the requirements of LBR 9004-1(a). Exhibits to the judge's copy must be tabbed.
 - (2) If the document is filed **or lodged** electronically, a judge's copy must be accompanied by a copy of the NEF **or LOU receipt** confirming the filing **or lodging** of the original document.
 - (3) **The Proof of Service of Document must indicate the method of service of a judge's copy.**
 - (4) **Exceptions to serving a judge's copy may be found in the Court Manual.**

LBR 7004-1(a)

Effective January 3, 2011

LBR 7004-1. ISSUANCE AND SERVICE OF SUMMONS AND NOTICE OF STATUS CONFERENCE

- (a) **Presentation for Issuance.** The attorney or party must prepare a Summons and Notice of Status Conference ~~for execution by the clerk,~~ using court-mandated form F 7004-1.~~SUMMONS for adversary proceedings or F 1010-1.1.SUMMONS for involuntary petitions. for execution by the clerk.~~ The summons must be presented concurrently with the filing of a complaint or of an involuntary petition pursuant to 11 U.S.C. § 303.
- (b) **Manner of Service.** A summons must be served in the manner authorized in FRBP 7004. If a summons or any paper is served by mail, the mailing address must include the zip code. The notice required by FRBP 7026 and LBR 7026-1 must be served with the summons and complaint.
- (c) **Exception – Statute of Limitations.** If the statute of limitations applicable to any claim in a complaint will expire before the summons can be prepared and submitted, the complaint will be accepted by the clerk for filing without a summons. The summons must be presented for issuance within 2 days after the complaint is filed under this exception.

LBR 7056-1(b)

Effective January 3, 2011

LBR 7056-1. SUMMARY JUDGMENT

- (a) **General.** The requirements of LBR 9013-1 through LBR 9013-4 apply to a motion for summary judgment, except as provided by this rule.
- (b) **Motion and Supporting Documents.**
 - (1) **Motion.** A notice of motion and motion for summary judgment or partial summary adjudication pursuant to FRBP 7056 must be served and filed not later than ~~36~~ 42 days before the date of the hearing on the motion.
 - (2) **Statement of Uncontroverted Facts and Conclusions of Law and Proposed Summary Judgment.**
 - (A) The movant must serve, file, and lodge with the motion for summary judgment or partial summary adjudication a proposed statement of uncontroverted facts and conclusions of law and a separate proposed summary judgment.
 - (B) Unless otherwise ordered by the court, the proposed statement of uncontroverted facts and conclusions of law must be lodged electronically via LOU. The statement must identify each of the specific material facts relied upon in support of the motion and cite the particular portions of any pleading, affidavit, deposition, interrogatory answer, admission, or other document relied upon to establish each such fact.
 - (3) **Evidence.** The movant is responsible for filing with the court all evidentiary documents cited in the moving papers in accordance with LBR 9013-1(i).

LBR 9009-1 Redline

Effective January 3, 2011

LBR 9009-1. FORMS

- (a) **Official Forms.** Official Forms prescribed by the Judicial Conference of the United States may be used in any case or proceeding filed in this court.
- (b) **Court-approved Forms.**
 - (1) In addition to the Official Forms prescribed by the Judicial Conference of the United States, the court provides additional court-approved forms, copies of which are available from the clerk and on the court's website.
 - (2) A court-mandated form is a court-approved form designated as "mandatory." Unless specifically designated as a mandatory form or unless otherwise specifically ordered, a court-approved form provided in these rules is optional and is provided for the convenience of the parties.
- (c) **Mandatory Language in Court-approved Forms.**
 - (1) Regardless of whether a court-approved form is mandatory or optional, ~~A court-mandated form is a court-approved form designated as "mandatory."~~ A a court-approved mandated form must be filed with the exact language provided in the form. If the court-approved mandated form is an order or judgment, the form order or judgment must be lodged with the exact language provided in the form, except that it may include additional language that has been approved by the court.
 - (2) No modification of the original text of a court-mandated approved form is permitted. Any proposed modification must be added as an attachment so that the suggested modification of the standard language of the court-mandated approved form is obvious.

LBR 9013-1(o)(2)

Effective January 3, 2011

- (2) Matters that May Not be Determined Upon Notice of Opportunity to Request Hearing. Unless otherwise ordered by the court, the following matters may not be determined by the procedure set forth in subsection (o)(1) above:
- (A) Objections to claims;
 - (B) Motions regarding the stay of 11 U.S.C. § 362;
 - (C) Motions for summary judgment and partial summary adjudication;
 - (D) Motions for approval of cash collateral stipulations;
 - (E) Motions for approval of postpetition financing;
 - (F) Motions for continuance;
 - (G) Adequacy of chapter 11 disclosure statements;
 - (H) Confirmation of plans in chapter 9, chapter 11, chapter 12, and chapter 13 cases;
 - (I) Motions for orders establishing procedures for the sale of the estate's assets under LBR 6004-1(b);
 - (J) Motions for recognition of a foreign proceeding as either a main or a nonmain proceeding;
 - (K) Motions for the adoption of a chapter 15 administrative order; and
 - (L) Motions for the adoption of a cross-border protocol.
 - (M) Motions to value and avoid junior liens in chapter 11, 12, and 13 cases ("LAM" motions).

LBR 9013-1(o)(4)

Effective January 3, 2011

LBR 9013-1. MOTION PRACTICE AND CONTESTED MATTERS

(o) Motions and Matters Not Requiring a Hearing.

(1) Matters That May Be Determined Upon Notice of Opportunity to Request Hearing. Except as to matters specifically noted in subsection (o)(2) below, and as otherwise ordered by the court, any matter that may be set for hearing in accordance with LBR 9013-1 may be determined upon notice of opportunity to request a hearing.

(A) Notice. When the notice of opportunity for hearing procedure is used, the notice must:

- (i) Succinctly and sufficiently describe the nature of the relief sought and set forth the essential facts necessary for a party in interest to determine whether to file a response and request a hearing;
- (ii) State that LBR 9013-1(o)(1) requires that any response and request for hearing must be filed with the court and served on the movant and the United States trustee within 14 days after the date of service of the notice; and
- (iii) Be filed with the court and served by the moving party on all creditors and other parties in interest who are entitled to notice of the particular matter.

(B) Motion. The motion and supporting papers must be filed with the notice, but must be served only on the United States trustee and those parties who are directly affected by the requested relief.

(2) Matters that May Not be Determined Upon Notice of Opportunity to Request Hearing. Unless otherwise ordered by the court, the following matters may not be determined by the procedure set forth in subsection (o)(1) above:

- (A) Objections to claims;
- (B) Motions regarding the stay of 11 U.S.C. § 362;
- (C) Motions for summary judgment and partial summary adjudication;
- (D) Motions for approval of cash collateral stipulations;

- (E) Motions for approval of postpetition financing;
 - (F) Motions for continuance;
 - (G) Adequacy of chapter 11 disclosure statements;
 - (H) Confirmation of plans in chapter 9, chapter 11, chapter 12, and chapter 13 cases;
 - (I) Motions for orders establishing procedures for the sale of the estate's assets under LBR 6004-1(b);
 - (J) Motions for recognition of a foreign proceeding as either a main or a nonmain proceeding;
 - (K) Motions for the adoption of a chapter 15 administrative order; and
 - (L) Motions for the adoption of a cross-border protocol.
- (3) No Response and Request for Hearing. If the response period expires without the filing and service of any response and request for hearing, the moving party must do all of the following:
- (A) File Declaration of Service and Non-response. Promptly file a declaration attesting that no timely response and request for hearing was served upon the moving party. A copy of the motion, notice, and proof of service of the notice and motion must be attached as exhibits to the declaration. No service is required prior to filing the declaration.
 - (B) Lodge Proposed Order. Lodge a proposed order in accordance with LBR 9021-1, except that: (i) the proposed order need not be served prior to lodging, except as otherwise required in these rules; and (ii) the Notice of Entered Order and Service List must limit service by the court to only the debtor or debtor in possession (and debtor's attorney, if any), and the United States trustee.
 - (C) Deliver Copies to Court. Promptly deliver to the court: (i) a copy of the declaration; and (ii) the appropriate proposed order, copies, and envelopes, as specified in LBR 9021-1 and the LOU Procedures.
- (4) Response and Request for Hearing Filed. If a timely response and request for hearing is filed and served, within ~~21~~ 14 days from the date of service of the response and request for hearing the moving party must schedule and give not less than 14 days notice of a hearing to those responding and to the United States trustee. If movant fails to obtain a hearing date, the court may deny the motion without prejudice, without further notice or hearing.